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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/659,502	09/11/2000	Monica R. Nassif	497.001US1	4893

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EXAMINER	
HUI, SAN MING R	
ART UNIT	PAPER NUMBER
1617	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/09/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	09/659,502	NASSIF ET AL.	
	Examiner	Art Unit	
	San-ming Hui	1617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *19 January 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *31-39* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *31-39* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Applicant's amendments filed January 19, 2007 have been entered. The addition of claims 32-39 is acknowledged.

Claims 31-39 are pending.

The outstanding rejection under 35 USC 102(b) is withdrawn in view of the amendments filed January 19, 2007.

New grounds of rejection are set forth below.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 31, 33-35 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The limitation "having a pH of at least 6.5" recited in claim 31 is not supported by the originally filed specification or claims. PH of at least 6.5 is construed as pH 6.5 or above (6.5-14 for example); however, only pH of 6.5-about 7.0 is found in the originally filed specification and claims.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 31-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO98/21307 (English equivalent US 6,114,298 is provided herein) in view of Remington's Pharmaceutical Science, 18th ed., 1990 page 1314.

US 6,114,298 ('298 herein after) teaches a composition comprising 0.005 to 5% of essential oil, a surfactant including nonionic surfactant and up to 15% of a long chain aliphatic alcohol such as decanol (See col. 4, lines 46-50, col. 7, lines, 19 –col. 8, line 3, col. 10, lines 53, and 63-67). '298 also teaches the pH of the composition as 1-12, and preferably 3-9 (See col. 9, lines 42-44). '298 also teaches the composition as useful to clean animate or inanimate object and surfaces such as skin, wall, glass, plastic, woods, vinyl, etc. (See col. 14, lines 44-67).

'298 does not expressly teach the herein recited ranges of essential oil and long chain aliphatic alcohol. '298 does not expressly teach the surfactant as Tween 20. '298 does not expressly teach the pH as 6.5-7.0.

Remington teaches that Tweens (polysorbate) as commonly use nonionic surfactant in pharmaceutical, cosmetics (See page 1314).

It would have been obvious to one of ordinary skill in the art at the time of invention to employ the herein claimed concentration of essential oil and long chain aliphatic alcohol in the cleaning composition and the disinfecting method. It would have been obvious to one of ordinary skill in the art at the time of invention to employ the herein claimed pH in the cleaning composition and the disinfecting method. It would have been obvious to one of ordinary skill in the art at the time of invention to employ a nonionic surfactant Tween 20, in the herein claimed dosage, in the cleaning composition and the disinfecting method.

One of ordinary skill in the art would have been motivated to employ the herein claimed concentration of essential oil and long chain aliphatic alcohol as well as the herein claimed pH of the composition in the cleaning composition and the disinfecting method. Since the concentration of essential oil and long chain aliphatic alcohol as well as the pH of the cleaning composition of '298 are overlapped with those of herein claimed, the optimization of these parameters would be considered obvious as being within the purview of skilled artisan, absent evidence with regard to the criticality of the herein claimed ranges.

One of ordinary skill in the art would have been motivated to employ a nonionic surfactant Tween 20, in the herein claimed dosage, in the cleaning composition and the disinfecting method. It is known that various non-ionic surfactants as useful in the composition of '298. Therefore, employing any well-known pharmaceutically and cosmetically acceptable surfactant, including Tween 20, would be considered simply employing obvious alternatives, absent evidence to the criticality of employing Tween 20 in the instant invention.

Claims 35-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 5,788,975 ('975).

'975 teaches a method of using a lasting scent composition comprising essential oils such as lavender oil (about 1%), about 18% of dodecanol and the use of Tweens surfactant (See col. 8-9, Example 8, claims 1, 2, 10 for example). '975 also teaches the concentrate of such odoriferous composition (See col.6, lines lines 48-50, and col. 9). '975 tecaches such odoriferous composition can be used as detergent and washing composition or be used on a surface or object (See col. 3, lines 9-15).

'975 does not expressly teach the herein claimed concentration of various components. '975 does not expressly teach the pH of composition.

It would have been obvious to one of ordinary skill in the art at the time of invention to employ the herein claimed concentration/amount of the components in the odoriferous composition of '975. It would have been obvious to one of ordinary skill in the art at the time of invention to employ the pH of the odoriferous composition of '975.

One of ordinary skill in the art would have been motivated to employ the herein claimed concentration/amount of the components in the odoriferous composition of '975 and use the same for leaving long-lasting scent. Absent evidence to the contrary, the optimization of the resulted parameters such as the concentration employed is considered obvious as being within the purview of the skilled artisan. Furthermore, for the herein claimed high concentration of long chain aliphatic alcohol, possessing the teachings of '975, one of skilled in the art would see that the concentrate of '975 would have the high concentration of dodecanol and the optimization of the concentration of dodecanol of the concentrate would be obvious as being within the purview of the skilled artisan, absent evidence to the contrary. Similarly, since the composition of '975 is used in the various surfaces and human, extreme pH of the composition would be very unlikely, especially when it is used on the skin as repellant. Optimizing the pH is therefore obvious to one of skilled artisan depending on the type of odoriferous composition is being formulated.

No claims are allowed.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to San-ming Hui whose telephone number is (571) 272-0626. The examiner can normally be reached on Mon 9:00 to 1:00, Tu - Fri from 9:00 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreeni Padmanabhan, PhD., can be reached on (571) 272-0629. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

San-ming Hui
Primary Examiner
Art Unit 1617